legislature to greatly increase the classes of things which may be the subjects of larceny.

MARRIAGE OF MINOR—WHAT LAW GOVERNS ANNULMENT.—Suit was brought to annul a marriage on the ground that plaintiff was under age at the time the supposed contract was entered into. The parties were both domiciled in New York, and had been refused a license to marry in that State. They went to New Jersey and were married, and returned to New York. It was admitted that by the law of New Jersey such marriage was valid; under the New York law non-age was a ground for annulment. *Held,* The marriage is invalid and should be annulled. *Cunningham* v. *Cunningham,* (N. Y. 1912) 99 N. E. 845.

Generally, of course, the validity of a contract of marriage depends upon the *lex loci contractus.* TIFFANY, PERSONS & DOMESTIC RELATIONS, 48; STORY, CONFLICT OF LAWS § 113; *Ex parte Chase,* 26 R. I. 351, 58 Atl. 978, 69 L. R. A. 493; *Com.* v. *Graham,* 157 Mass. 73, 31 N. E. 706, 16 L. R. A. 578, 34 Am. St. Rep. 255; *Sturgis* v. *Sturgis,* Ore. 93 Pac. 696. An exception to this general rule exists where the marriage is polygamous, incestuous, or against common morality. *McClennan* v. *McClennan,* 31 Ore. 480, 50 Pac. 802, 38 L. R. A. 863, 65 Am. St. Rep. 835; *Johnson* v. *Johnson,* Wash. 106 Pac. 500. A second exception to the general rule exists where the marriage is one expressly prohibited by the law of the domicile as contrary to the public policy thereof, and the ceremony is performed in another state to evade that law. *In re Stull's Estate,* 183 Pa. 625, 39 Atl. 16, 39 L. R. A. 539, 63 Am. St. Rep. 776; *State* v. *Fenn,* Wash. 92 Pac. 417. But see contra, *State* v. *Hand,* Neb. 126 N. W. 1002. TRACY, J., in *Thorp* v. *Thorp,* 90 N. Y. 602, 43 Am. Rep. 189, says, "The validity of a marriage contract is to be determined by the law of the place where entered into. If valid there it is to be recognized as such in the courts of this State, unless contrary to the prohibitions of natural law, or the express prohibitions of a statute." It is within the power of the legislature to change these rules of private international law; but in the absence of express provisions it is not to be lightly inferred that it has done so. *Van Voorhis* v. *Brintnall,* 86 N. Y. 18, 40 Am. Rep. 505. In the principal case there was no express prohibition upon the said marriage. There was merely a statute providing that non-age of one of the parties to a marriage contract was a ground for annulment at the application of that party; and it seems that a proper construction of such a statute would give it no extraterritorial effect. Hence it is submitted that the decision in the principal case is wrong, as the facts of the case do not bring it within an exception to the general rule that the *lex loci contractus* controls. The dissenting opinion of WERNER, J., presents what seems to be the better decision. See further on this point, the note to *Hills* v .*State,* 61 Neb. 589, 85 N. W. 863, 57 L. R. A. 155.

MASTER AND SERVANT—LIABILITY OF EMPLOYER FOR ACTS OF INDEPENDENT CONTRACTOR.—Plaintiff sold the pine timber on a certain tract of land to defendant's grantor, reserving certain timber on portions of the land which was not to be cut. Thereafter, defendant employed S to remove the timber owned by it, but instead of cutting that alone, S also cut some of the timber

specially reserved. S by his contract was to cut the timber and load it on the cars at $6.00 per thousand feet. Plaintiff sued defendant in trespass. *Held*: That the defense that S. was an independent contractor was not involved. *Abbott* v. *Sumter Lumber Co.* (S. C. 1912) 76 S. E. 146.

One of the grounds given by the court for its decision is that the defendant's right to enter the plaintiff's land depends upon his contract with the plaintiff, that there was no privity of contract between S. and the plaintiff, and that S. entered the land under a contract with the defendant and therefore the defendant is responsible for his acts. The general rule as stated in THOMPSON, NEGLIGENCE, § 621 is "That one who has contracted with a competent and fit person, exercising an independent employment, to do a piece of work not in itself unlawful, or of such a nature that it is likely to become a nuisance, or to subject third persons to unusual danger, according to the contractor's own methods and without being subject to control except as to the results of his work, and subject to the qualifications hereafter stated—will not be answerable for the wrong of such contractor, his sub-contractor, or his servants committed in the prosecution of such work." In *Young* v. *Fosburg Lumber Co.*, 147 N. C. 26, 60 S. E. 654, and in *Knowlton* v. *Hoit*, 67 N. H. 155, 30 Atl. 346, it has been held that a person cutting timber at so much per thousand feet was an independent contractor and the employer was not liable for his wrongful acts. The contract with the plaintiff in this case gave the defendant the right to enter and cut timber and also the power to transfer this right. There is nothing in the contract that prohibits the grantor from allowing an independent contractor to cut the timber. The case does not fall within the class of cases which have fixed upon the employer an exceptional liability for the acts of his independent contractor. *Atlanta etc. R. R. Co.* v. *Kimberly*, 87 Ga. 161, 13 S. E. 277; *McHarge* v. *Newcomer*, 117 Tenn. 595, 100 S. W. 700; THOMPSON, NEGLIGENCE, § 646; MOLL, INDEPENDENT CONTRACTORS, ch. 3, 4, 5, 6. The holding of the court upon this point introduces an exception to the general rule of the liability of the employer which has not been recognized by any former cases.

MORTGAGE—CONVEYANCE TO "SECOND HIGHEST BIDDER" HELD VOID.—Defendant executed a trust deed to secure a debt due to plaintiff. Default having been made, the property was put up for sale by the trustee. X was the highest bidder, but failed to comply with his bid and the trustee executed a deed to plaintiff as the second highest bidder. Defendant refused to surrender the premises and plaintiff sued for possession. *Held* that the trustee had no authority to execute a deed to plaintiff as second highest bidder, but that on the failure of the highest bidder to perform, the trustee must re-advertise and re-sell in the manner prescribed in the trust deed. *Valentine* v. *Dunagin Whitaker Co.*, (Miss. 1912) 59 So. 844.

No authority is cited by the court to sustain its decision, and the case is not such a conclusive one as the decision would indicate. One case holds that where a bidder at a mortgage trustee's sale refuses to comply with the terms of the sale, the trustee may proceed with the sale, give to the next highest bidder or re-advertise and re-sell. *McClung* v. *Trust Co.*, 137 Mo. 106. So